



U.S. Department of Justice

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Southern District of New York*

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One Saint Andrew's Plaza
New York, New York 10007*

December 15, 2023

BY ECF

The Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

MEMO ENDORSED

Re: United States v. Farouk Kukoyi, 20 Cr. 3 (KPF)

Dear Judge Failla:

On October 30, 2023, the Court directed the Government to respond by December 18, 2023 to the petition of insurers Lexington Insurance Company, National Union Fire Insurance Company of Pittsburgh, Pa., and Greenwich Insurance Company (the “Petitioners”) for an ancillary hearing on certain forfeited funds in this case. (Dkt. 488). For the reasons set forth below, the Government respectfully requests that the Court adjourn the deadline for the Government’s response to February 16, 2024. The Petitioners do not object to this application.

On December 3, 2023, the Government completed publication notice of forfeiture pursuant to Federal Rule of Criminal Procedure 32.2(b)(6). Other than that of the Petitioners, the only claim the Government has received is a letter from insurer Crum & Forster, dated August 28, 2023, addressed to the Clerk of the Court with a copy to the undersigned. The letter, which has not been docketed, is attached as Exhibit A.¹ Based on the information in the letter, which asserts subrogation rights as an additional insurer of the same victim insured by the Petitioners, Crum & Forster appears to be similarly situated to the Petitioners. Its letter, however, does not meet the requirements of 21 U.S.C. § 853(n)(3) (made applicable by 18 U.S.C. § 982(b)(1)) that the petition be “signed by the petitioner under penalty of perjury” and that it “set forth the nature and extent of the petitioner’s right, title, or interest in the property, the time and circumstances of the petitioner’s acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner’s claim, and the relief sought.”

On October 25, 2023 and December 14, 2023, the Government notified Crum & Forster by email that an appropriate petition must be filed on the court docket. Pursuant to 18 U.S.C. § 982(b)(1) and 21 U.S.C. § 853(n)(2), such a petition is due within 30 days of publication notice or receipt of direct notice, whichever is sooner. In light of Crum & Forster’s August 29 letter to

¹ Consistent with the Court’s order dated October 5, 2023, granting the Petitioners’ motion to seal certain exhibits that named the victim city, (Dkt. 482), the Government has redacted the identity of the insured victim in Crum & Forster’s letter and replaced it with the identifier “Victim-29.”

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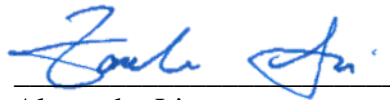
the Clerk of the Court, the Government proposes permitting Crum & Forster until January 15, 2024 to file a proper petition on the docket.

The Government has engaged in preliminary discussions with the Petitioners regarding a potential resolution to the forfeiture matter, and expects to continue those discussions either with the participation of Crum & Forster (if it files a petition by January 15, 2024 or any other deadline set by the Court) or without (if it does not). The Government therefore proposes reporting to the Court on the status of the matter by February 16, 2024, or sooner if a disposition is reached.

Respectfully submitted,

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Application GRANTED. If they wish to participate in this matter, Crum & Forster shall file a proper petition on the docket on or before **January 15, 2024**.

The Government shall file a letter providing an update on the status of this matter on or before **February 16, 2024**, or within 5 days of its resolution, whichever is sooner.

The Clerk of Court is directed to terminate the pending motion at docket entry 492. The Government is directed to provide a copy of this endorsement to its most recent point of contact at Crum & Forster.

Dated: December 18, 2023
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE